THE HON'BLE MS.JUSTICE G.ROHINI

–

WRIT PETITION NOs.14633 & 15088 OF 2005

DT.23-12-2005

–

WRIT PETITION NO.14633 OF 2005

Between:

G.Gangasuri Babu,

S/o Lakshmana Murthy,

Aged 31 years, Cultivation,

R/o of Talolarevu (V & M),

East Godavari District and 21 others.

… Petitioners

And

The Regional Joint Commissioner,

Endowments Department,

Multi Zone – I, Kakinada and 2 others.

…. Respondents

WRIT PETITION NO.15088 OF 2005

–

Alluri Narayana Raju,

S/o Satyanarayana Raju,

Aged 75 years, Cultivation,

Veerabhadrapuram (v) Tallarevu (M),

East Godavari District

….. Petitioner

A n d

The Assistant Commissioner,

Endowments Department,

Vijayawada and another

… Respondents

THE HON'BLE MS.JUSTICE G.ROHINI

–

WRIT PETITION NOs.14633 & 15088 OF 2005

COMMON ORDER:

These two writ petitions, which involve common questions of fact and law, are heard together and decided by this common order.

The petitioners in W.P.No.14633 of 2005, who are 22 in number, claim to be the cultivating tenants of the land situated in R.S.No.77 of Tallarevu Village which admittedly belongs to Sri Andhra Jatheeya Vidya Parishad, Machilipatnam. It is stated that all the petitioners put together are in possession of land to an extent of Ac.106.08 cents.

The petitioner in W.P.No.15088 of 2005 claims to be the cultivating tenant in respect of land belonging to the same institution i.e., Sri Andhra Jatheeya Vidya Parishad, Machilipatnam in respect of Ac.7-43 cents of land situated in Sy.Nos.610/2, 610/3, 614/1, 618/1, 619/1, 619/2 and 620/2 of Pallipalem Village, Kajuluru Mandal, East Godavari District.

The case of the petitioners in both the writ petitions is that they are landless

poor and therefore in terms of the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules 2003, they made applications before the Assistant Commissioner of Endowments, Vijayawada seeking a declaration that they are landless poor. So far as the applications filed by the petitioners in W.P.No.14633 of 2005 are concerned, the same were rejected by the Assistant Commissioner of Endowments by order dated 13-12-2004 and aggrieved by the said order, they preferred an appeal before the Regional Joint Commissioner, Kakinada on
21-05-2005. The petitioner in W.P.No.15088 of 2005 states that his application was still pending before the Assistant Commissioner of Endowments.

While so, the third respondent – Executive Officer proposed to conduct auction in respect of lands in question. Aggrieved by the same, these writ petitions are filed seeking a declaration that the notice proposing to conduct auction of leasehold rights is arbitrary and illegal.

It was primarily contended by the petitioners that since their claim that they are landless poor has not been conclusively determined by the statutory authorities, the third respondent was not justified in proposing to conduct auction in respect of the lands in their possession. This Court while directing Rule Nisi, by orders dated 07-07-2005 and 13-07-2005 directed that the auction, if any, conducted by the third respondent should be subject to the result of the writ petition.

The petitioners state that by virtue of the interim orders granted by this Court, they have been continuing in possession and raised crops which are ready for harvesting as on today. However, as can be seen from the counter-affidavit filed by the third respondent, the appeal preferred by the petitioners in W.P.No.14633 of 2005 has already been dismissed by the Regional Joint Commissioner, Kakinada. Similarly, the application filed by the petitioner in W.P.No.15088 of 2005 was dismissed by the Assistant Commissioner of Endowments and the appeal preferred by him was also dismissed. The said fact has not been disputed by the learned counsel for the petitioners. In the circumstances, the petitioners are not entitled to the benefit under Section 82(2) of the Act and therefore, the third respondent cannot be found fault with in proposing to conduct auction of the leasehold rights in respect of the lands in question. The learned counsel appearing for the third respondent submits that

in view of the pendency of these writ petitions, they could not proceed with the auction proposed under the impugned auction notice and now they may be permitted to conduct fresh auction.

Accordingly, the writ petitions are disposed of permitting the petitioners to harvest the standing crop, subject to the condition that the agreed maktha as fixed by the third respondent is paid. Thereafter, the petitioners shall handover vacant possession of the lands in question to the 3rd respondent. The petitioners shall furnish an undertaking to that effect to the 3rd respondent within four weeks from today. After the standing crop is harvested, it is open to the 3rd respondent to conduct fresh auction.

The writ petitions are accordingly disposed of. There shall be no order as to costs.

_____

23-12-2005.

Note:

Furnish CC in 4 days.

B/o Lrkm.